2, c. 3, sec. 2; So. Dak. Const., art. 5, sec. 13; N. H. Const., part 2, sec. 73; R. I. Const., art. 10, sec. 3; etc. If in accordance with this constitutional right the proper authority requires of a court its opinion, that court must be bound to answer. The one asking should be, in right and logic, the proper judge of the reasonableness of the demand or the solemnity of the occasion. See 26 Harv. L. Rev. 655; H. A. Dubuque, "The Duty of Judges as Constitutional Advisers," *supra*, 386. But see *In re Penitentiary Com'rs.*, 19 Colo. 409, 35 Pac. 915; *In the Matter of the North Missouri R. R.*, 51 Mo. 586; *Opinion of the Justices*, 148 Mass. 623, 21 N. E. 439; *Opinion of the Justices*, 95 Me. 564, 51 Atl. 224, *contra*. Of course, if the request is patently unreasonable, frivolous, or in excess of the scope of the constitutional provision, the court may refuse, for such questions it is not bound to answer. But in the principal case the request is reasonable and within the express scope. In refusing to answer, the court flies in the face of the state Constitution. That its reasons for refusing are the excellent reasons always to be advanced against any court's giving *ex parte* advice cannot ameliorate the error. The duty of the Supreme Court is to observe the constitution as it is framed, not as it should be framed.

Corporations — Directors and Other Officers — Knowledge of a Director as Knowledge of a Corporation. — The defendant corporation, which held certain stock as pledgee and was about to exercise its power to sell to the highest bidder, appointed three directors to find a purchaser. Two other directors received a bid from a prospective purchaser and, scheming for individual profit, advised him to make a smaller bid. The smaller bid was made to the three directors and was accepted by all the directors sitting as a board. The plaintiff as assignee of the pledgor sued for the alleged conversion of this stock on the ground that the knowledge of the two directors of the larger bid was notice to the corporation. *Held*, that such knowledge is not imputed to the corporation. *Western Securities Co.* v. *Silver King Consol. Mining Co.*, 192 Pac. 664 (Utah).

For a discussion of this case see Notes, page 656, *supra*.

Damages — Measure of Damages — Compensation for Loss of Use of Personal Property. — Defendant wrongfully detained plaintiff's road-making outfit. Plaintiff sued for its return with damages for the value of its use during the period of detention. Defendant requested an instruction that, in determining the "use value," the jury should ". . . limit the same to the reasonable value of the use of said outfit . . . devoted to such use as the plaintiff had carried on prior to the seizure." This was refused. *Held*, that the instruction should have been given. *Montgomery* v. *Gallas*, 225 S. W. 557 (Tex.).

In an action of replevin the damages usually allowed are the interest on the capital value of the property for the period of wrongful detention. *Wadleigh* v. *Buckingham*, 80 Wis. 230, 49 N. W. 745; *Redmond* v. *American Mfg. Co.*, 121 N. Y. 415, 24 N. E. 924. See 4 Sutherland, Damages, 4 ed., § 1144. But, since the purpose of damages is adequate compensation, where the value of the use of the property exceeds such interest, it may be substituted therefor. *Allen* v. *Fox*, 51 N. Y. 562; *Forsee* v. *Zenner*, 193 S. W. (Mo.) 975. See Wells, Replevin, 2 ed., §§ 582, 583. The recognized test for ascertaining, with the requisite certainty, this "use value" is rental value. *Ocala Foundry Works* v. *Lester*, 49 Fla. 199, 38 So. 51; *MacKenzie* v. *Steeves*, 98 Wash. 17, 167 Pac. 50. It cannot be measured by the profits expected from the plaintiff's anticipated use of the property. *Williams* v. *Wood*, 55 Minn. 323, 56 N. W. 1066. See *Aber* v. *Bratton*, 60 Mich. 357, 362, 27 N. W. 564, 566. The principal case proposes a more definite criterion. See 1 Sedgwick, Damages, 9 ed., § 171 (b). It substitutes for the market value of the use the market value of the plaintiff's